IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 16243 of 1996

Between:

1. M.K.N.K. Nair, W/o. Late P. Nair.
2. K. Rajan, S/o. Kali
3. M.T.Vargheese, S/o. Tahamas
4. S. Ramchandran, S/o. Sarathi
5. Rajendra Rawla, S/o. Kaliar Rawla
6. Basudev Paramalik, S/o. Upendranath Baramalik
7. G. Amrutha Rao, S/o. Somaraju
8. Ayubansari, S/o. Abid Ansari
9. K.N.Singh, S/o. B.R. Singh
10. A.K. Prasad, S/o. Narayanlal
11. G.V. Ramana, S/o. Suryanarayana
12. G. Mohan, S/o. Suryanarayana
13. N.S. Achary, /o. Narayana Chay
14. Ghan Shyam, S/o. Gopal Bhadur
15. E. Balakrishna, S/o. Jaggarao
16. K. Sharma, S/o. Rambhadur Sarma

17. J.T. Bai, S/o. R.T. Bai

(All are R/o. Gazuwaka, Vishakapatnam-26).

..... PETITIONERS

AND

1. The Hindustan Steel Works Construction Ltd.,

(A Govt. of India undertaking) rep., by its

Managing Director, Shakesper Road, Sarani,

8th Floor, Calcutta.

2. The Hindustan Steel Works Construction Ltd.,

(A Govt. of India undertaking) rep., by its

General Manager, Admn. Buildings,

Visakhapatnam Steel Plant, Visakhapatnam.

3. The Secretary, Ministry of Industries,

Govt. of India, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction in the nature of writ of Mandamus and declare the letter dt.23-12-95 in Proc.No.GM(V)/LD/SS/95-1869 issued by Respondent No.1 as illegal, arbitrary and against the principles of natural justice and consequently direct the respondents to extend the benefits to the petitioners with effect from the date of her voluntary retirement under the Scheme (II Scheme) dt. 16-6-95.

Counsel for the Petitioner: MR.K.VENKATA REDDY

Counsel for the Respondent No.1 & 2: MR.T.S.ANAND

Counsel for the Respondent No.3: MR. A. RAJASEKHARA REDDY

SENIOR SC FOR CENTRAL GOVERNMENT

The Court made the following:

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ORAL ORDER:

Petitioners (17) in number were employees in various categories of services of the Hindustan Steal Works Construction Limited.

The respondent company, a Government of India undertaking, was in financial distress which included acute shortage of working capital and was having a manpower disproportionate to its current or projected business. With a view to prune its excessive work force and in the context of its contemporary business concerns, the respondent- company on 28-10-1993, issued an appeal calling upon employees to opt for a Voluntary Retirement Scheme. The scheme was earlier introduced and an appeal was issued on 28-10-1993 to yet again motivate employees to opt for the scheme. The company circular dated 28-10-1993 stated that the execution of the scheme would be valid up to 31-12-1993 beyond which the scheme "in all probability may not be extended". By another circular dated 18-11-1993 the initial scheme was made more attractive and a better financial package was incorporated into the Voluntary Retirement Scheme in areas such as traveling and transportation expenses for settlement, half-pay leave, earned leave for workmen etc.

All the petitioners opted for Voluntary Retirement, their options were accepted and they were relieved from service on Voluntary Retirement terms and the Voluntary Retirement benefits were also paid to and drawn by them.

After total severance of the employment relationship between the petitioners and the respondent-company, the respondent-company by another circular dated 16-6-1995, notified an Employees Welfare Assistance Scheme. The scheme annexed to the

circular dated 16-6-1995 is specified to come into effect from 20-6-1995 and remain operative till 30-9-1995. Under this Scheme, in recognition of the fact that an employee faces hardship and the trauma of job loss, certain financial assistance packages were given to employees, such as, for the purpose of acquisition of assets including vehicles for commercial use, machines, tools and tackles for different types of workshop, for establishing automobile garage for repair and maintenance, for acquisition of a plot or shop for trading, or land for agriculture, horticulture or the like and for other areas of post Voluntary Retirement employment or occupation. The benefits under the 1995 scheme were not applicable or extended to persons who had already ceased to be in the employment of the respondent-company before the date of the scheme. The petitioners were therefore not eligible for the benefits under this scheme.

The petitioners made several representations and also got issued legal notices to the respondent-company seeking the benefits under the 1995 scheme. The respondent-company by the comprehensive and common reply dated 23-12-1995, rejected the claims of the petitioners, aggrieved whereby the writ petition is filed. Petitioners in substance seek extension of the benefits under the 1995 scheme to them despite the fact that they had retired pursuant to the 1993 scheme.

It is contended on behalf of the petitioners that they were enticed to opt for the Voluntary Retirement under the 1993 scheme on the basis of the representation made therein that the scheme would not be extended. If such representation was not incorporated in the respondent's circular dated 28-10-1993, perhaps the petitioners may not have opted for Voluntary Retirement Scheme at that point of time, is the contention. Since, they were enticed into accepting Voluntary Retirement earlier, their Voluntary Retirement should be ignored and the respondent-company should be directed to extend to them the benefits of the 1995 scheme is the meat of the petitioners' contention.

Neither conceptually nor in fact does the contention of the petitioners commend acceptance by this Court. The chronology of events and the succession of the circulars shows that the respondent-Corporation was in dire financial distress that was getting worse over a period of time. As an instrumentality of the State and with a view to mitigate the trauma, consequent of removal of its employees from service by the normal course of retrenchment, the respondent-company, despite its financial

constraints, had engendered successive voluntary retirement schemes. The first of such schemes was in the year 1993 which initially did not evince much response. The Voluntary Retirement Scheme package was therefore made more attractive even for the petitioners who responded to the circular dated 28-10-1993. They applied for voluntary retirement, their applications were accepted and the benefits given. Having severed the employer-employee relationship with the respondent-company, the petitioners can have no legitimate expectation of any benefits from the respondent-company, based on a subsequent Voluntary Retirement Scheme, although that later scheme is more generous or contains better financial packages than the earlier scheme of 1993. The petitioners characterization of the representation in the respondent's circular dated 28-10-1993 viz that this scheme would not be extended further "in all probability", as an enticement is clearly an after thought. There was no enticement indeed. The statement was made by the respondent on the basis of the situation as it then stood in the perception in the respondent-Corporation. Even, otherwise, there was an inbuilt open textured expression hinting at a possibility of an extension of this scheme, by use of the expression "in all probability".

On the analysis above, this Court finds no merit in the writ petition. No rights or legitimate expectations of the petitioners have been violated by the respondent-company.

Accordingly, writ petition is dismissed. No costs.

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3-08-2004

es/pvsn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Managing Director, Hindustan Steel Works Construction Ltd., (A Govt. of India undertaking) Shakesper Road, Sarani, 8th Floor, Calcutta.

2. The General Manager, Hindustan Steel Works Construction Ltd.,

(A Govt. of India undertaking), Admn. Buildings, Visakhapatnam Steel Plant, Visakhapatnam.

3. The Secretary, Ministry of Industries, Govt. of India, New Delhi.

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